RAJYA SABHA

Tuesday, the 8th March, 1994|17th Phalguna 1915 (Saka)

The House met at eleven of the clock. **Mr. Chairman** in the Chair.

ORAL ANSWERS TO QUESTIONS

Reducing and restoring excise duty on certain equipment

*181. SHRI SUSHILKUMAR SAMBHAJI RAO SHINDE:†
SHRIMATI VEENA VERMA:

Will the Minister of FINANCE be pleased to refer to answer to Unstarred Questions 2569 and 2576 given in the Rajya Sabha on 21st December, 1993 and state:

(a) what were the precise circumstances in which the excise duty on machinery plant and laboratory equipment for treatment of material by condensing or cooling was hiked from 15 per cent to 110 per cent and then restored back to 15 per cent just within two months or less;

(b) whether any decision has since been taken to give retrospective effect to the notification reducing and restoring the excise duty chargeable on process plant and equipment, including heat exchanges, to pre-budget level; and

(c) if so, whether notification to that effect has been issued; if so, when and if not, what are the reasons for the delay?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI M. V. CHANDRASHEKHARA MURTHY): (a) to (c) A statement is laid on the Table of the House.

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†The Question was actually asked on the floor of the House by Shri Sushilkumar Sambhajirao Shinde.

Statement

(a) The precise circumstances in which the excise duty on machinery, plant and laboratory equipment for treatment of material by condensing or cooling restored back, have been mentioned in reply to Unstarred Question No. 2569. The reasons are reproduced below:—

> "While reducing the duty on capital goods falling under heading 84.19, the description of the goods was changed without any intention of changing the scope of the exemption. This, however, led to increase in duty on machinery, plant and laboratory equipment which treats material by condensing or cooling other than refrigeration and air conditioning machinery such as cooling towers etc., from pre-budget rate of 15 per cent to 110 per cent."

(b) and (c) Notification granting exemption from excise duty are issued under section 5A(1) of the Central Excises and Salt Act, 1944. There is no provision in the said Act to issue a notification giving retrospective effect to an exemption notification already issued.

श्री सुशील कुमार संभाजीराव सिन्दे : सभापति महोदय, मंत्री महोदय ने जो उत्तर दिया था 21 दिसम्बर को, उसमें उन्होंने यह कह दिया था –

> "Representations have been received for issue of Notification/corrigendum to ensure that no demands are raised on the assessees manufacturing and clearing such goods during the period from 28-2-93 to 22-4-93. Field formations have been advised not to take coercive action on this issue."

यह उन्होंने दिसम्बर में ही उत्तर दें दिया था। महोदय, मैं इतना ही कहना चाहता हूं कि यह जो इंडस्ट्रीज हैं, स्माल स्केल इंडस्ट्रीज हैं और ज्यादातर 75 परसेंट यह इंडस्ट्रीज महाराष्ट्र में ही हैं । अब सरकार की जब यह पालिसी रही है स्माल स्केल इंडस्ट्रीज को प्रधानता देने की और 1983 से 1992 तक कभी भी 10 परसेंट से 15 परसेंट तक यह ड्यूटी नहीं बढ़ी तो सडनलि 28 फरवरी, 1993 की 15 परसें

से 110 परसेंट यह ड्यूठी क्यों बढ़ाई जाती है कुछ उसका फार्मूला तो है, जो 15 परसेंट से 110 परसेंट ड्यूटी बढ़ाई जाती है ? मैं समझ सकता हूं कि जैसे पांच परसेंट बढ़ाया, 10 परसेंट से 15 परसेंट हो गया या 20 परसेंट किया या 25 परसेंट किया, तो मैं समझ सकता हूं, लेकिन 15 परसेंट से एकदम 110 परसेंट का जम्प हो जाना ? और, जब यह मालुमात करा दी, मैं धन्यवाद देना चाहता हूं मंत्री जी को भी, कि उन्होंने स्टे-आर्डर दे दिया । सवाल यह है कि उद्योग-धंधे चलाने वाले जो लोग हैं, उनके लिये जब इस तरह की दिक्कतें आ जाती हैं तो सरकार के पास उनके कानून में यह भी नहीं होता कि नोटिफिकेशन निकाल सकते है, यह बोल देते हैं । तो मैं सरकार से यह पूछना चाहता हूं कि जो पीरिएड 28 फरवरी, 1993 से 22 अप्रैल, 1993 तक, दो महीने 6 दिन में 110 परसेंट की ड्यूटी लगी हुई है, आपने रिड्यूस किया बाद में और उसको 15 परसेंट में लाये, तो उस रेट का उनको आपको एजम्पशन देना चाहिये, यह एजम्पशन सरकार देगी या नहीं ? यही मैं पूछना चाहता हूं ।

SHRI M. V. CHANDRASHEKHAR MURTHY: Sir, in the Budget for 1993-94, it was decided to reduce the concessional duty of 15 per cent to further 10 per cent on those falling under heading No 84.19 of the Schedule to the Central Excise Tariff Act, 1985. While issuing the Notification on 28th February 1993, the description of the goods was inadvertently changed. This inadvertent change led to the increase in duty on machinery, plant and laboratory equipment which treats material by condensing or cooling other than refrigeration and air-conditioning machinery such as cooling towers etc., from pre-Budget rate of 15 per cent to 110 per cent. This anomaly was noticed based on representations from the industry as well as the hon. Member. The pre-Budget rate of 15 per cent had to be restored for this machinery by Notification dated 23rd April, 1993 but for the period between 1-3-93 to 22-4-93, higher rate of duty was leviable, and for the clearance which was made, demands have been raised for differential rate of duty. We have taken the opinion of the Law Ministry. The Law Ministry has given the opinion that a notification under the Central Excises and Salt Act cannot be given retrospective effect. Now, the question is being examined whether a notification under section 11C could be issued to waive the demand which occurred due to the higher duty being levied.

SHRI SUSHILKUMAR SAMBHAJIRAO SHINDE: Sir, I would like to have a categorical assurance from the hon. Minister on this. It is another question whether it exists in the law or not. But doing a thing inadvertently cannot be a part of the law. Therefore, if a thing had been done inadvertently, it will have to be corrected. The burden lies on the Government. If you raise the duty from 15 per cent to 110 per cent, how can a small-scale entrepreneur pay it? Therefore, immediate instructions should be issued not to demand this higher duty which was levied inadvertently.

SHRI M. V CHANDRASEKHAR MURTHY: I would like to point out to the hon. Member, in this connection, that a surbey was taken. From the information received from the 12 Collectorates, we find that the total demand raised was Rs 12.16 crores. Based on these reports, it is noticed that the assessees have, by and large, cleared the goods by paying the excise duty at the concessional rate and not at the statutory rate of 110 per cent. Only in one case, the assessee has, under protest, paid the duty of 110 per cent. In the rest of the case, demands have not been realised at the higher rate. As I said, the matter is being examined whether a notification under section 11C could be issued to waive all these demands.

SHRI SUSHILKUMAR SAMBHAJIRAO SHINDE: It is very clear from the answer of the hon. Minister that nobody had paid, except one. I am very happy with the answer given by the hon. Minister. But this should not be kept pending for such a long time. Before this Session ends, it should be done, to help the small-scale entrepreneurs.

श्रीमती वीणा वर्मा : मेरी जानकारी के अनुसार पिछले 10 वर्ष में एक साथ इस तरह की इंडस्ट्री पर कभी इतना टैक्स इंक्रीज नहीं किया गया था और जब कि मिनिस्ट्री के इस पर साफ आर्डर थे फाइनेंस बिल में कि कोएरसिव एक्शन नहीं लिया जायेगा, नो फ्लेक्स, बल्कि साफ्ट एक्शन लिया जायेगा, तो फिर क्या कारण था कि इसको बढ़ाया गया और दो महीने बाद ही कम कर दिया गया ? फिर यह स्माल स्केल इंडस्ट्री, जो कि खास तौर से पिछड़ा या बैकवर्ड क्षेत्र में थी, तो हम स्माल स्केल इंडस्ट्री को बढ़ावा देने की जगह एकदम इतना हाई करते हैं, इसका क्या कारण है? बड़ी-बड़ी इंडस्ट्री को हम इसमे एग्जम्शन देते हैं, स्माल स्केल इंडस्ट्री को एकदम हाई करते हैं तो क्यों नहीं इसको खत्म कर दिया जाना चाहिये ?

SHRI M. V. CHANDRASHEKHAR MURTHY: Mr. Chairman, Sir, the proposal in regard to exemptions in excise duty to the small-scale sector is not before the Government at present. But Sir, the Government is very sincere in promoting the small-scale industries. It is only with this intention that we hav given reliefs and concessions to the small-scale sector. As I have pointed out already, this has happened inadvertently and it is being corrected.

SHRI DINESHBHAI TRIVEDI: Mr. Chairman, Sir, raising of the excise duty from 15 per cent to 110 per cent and then coming back to 15 per cent again resembles what is happening in the stock exchange. I hope there are no bulls and bears in the Excise Department.

In regard to the excise duty, this year's Budget is surely a doctor's prescription. The patient can never make head or tail out of it. Even the chemists had problem reading this year's Budget. The captains of industry did not know what it was. At first, they were rejoicing until they were told that the excise duty had not come down, but it had gone, up. So, while you are giving a lot of poetry, righly so, I enjoyed the poetry part. That was a chocolate and the capsule was inside. You have other reason also. In spite of that, we are appreciating your every reason. To quote another couplet, maybe, when industrialists are rejoicing, still:

"बड़ी वफा से निभाई तूने,
हमारी थोड़ी सी बवफाई"

MR. CHAIRMAN: After the couplet you can put the question.

SHRI DINESHBHAI TRIVEDI: I have got inspiration from Dr. Singh.

SHRI PRAMOD MAHAJAN: Now there will be excise duty on every couplet. There must be excise duty on every couplet that is recited here.

SHRI DINESHBHAI TRIVEDI: Coming to the main question, the budget deficit in 1993-94 was 4.7 per cent of GDP, but actually it is likely to be over 7.3 per cent: Inflation is up from 4.5 per cent to 8.6 per cent.

MR. CHAIRMAN: Mr. Trivedi, please put your question. Do not have commentary on the budget.

SHRI DINESHBHAI TRIVEDI: We have taken the bitter pill of Dr. Singh. I hope he also took it in a sportsman spirit. (*Interruptions*).

MR. CHAIRMAN: Please ask your question.

SHRI DINESHBHAI TRIVEDI: They are disturbing. They are not allowing me to ask the question.

MR. CHAIRMAN: You are preventing yourself from asking the question.

SHRI AJIT P. K. JOGI: He is obsessed with the pill.

SHRI DINESHBHAI TRIVEDI: Twenty one per cent has been the export which is a very small segment of the entire proportion of GDP.

MR. CHARMAN: I will have to remove it from the text if you do not ask the question.

SHRI DINESHBHAI TRIVEDI: I am asking. What is the safety note? If this does not come up to your expectation, what is the guarantee that you will not again change your excise which will hurt the farmer? Your small taxes have already been affected. (*Interruptions*).

SHRI M. V. CHANDRASHEKHAR MURTHY: Sir, the main question relates to certain goods under heading 84(1) of the Ninth Schedule of the Central Excise and Salt Act. The supplementary of the hon. Member does not arise out of this.

MR. CHAIRMAN: You don't have to answer this.

DR. JINENDRA KUMAR JAIN: Sir, before I put my supplementary, I seek your permission to slightly dilate the scope of my enquiry.

MR. CHAIRMAN: Please, ask your question. Do not be a doctor in dilation.

DR. JINENDRA KUMAR JAIN: It was an interesting dialogue here in this House this morning. When an hon. Member and leader of the ruling party points out a correction or a mistake, the Finance Minister immediately corrects that mistake. If I point out a mistake in the principles of budget and give specific examples...

SHRI SUSHILKUMAR SAMBHAJIRAO SHINDE: It is not a question of the ruling party. Before I asked the question, it was corrected. So, the question of the ruling party does not arise.

DR. JINENDRA KUMAR JAIN: The principle is that the raw material should be charged less taxes while it is imported. Is this correct?

MR. CHAIRMAN: Ask the Minister.

SHRI JINENDRA KUMAR JAIN: Okay. I shall take the specific example of three raw materials, that is, DPM, FM and HPS. In this case the raw material is being charged at the rate of 50 per cent of the duty, and the finished goods are being allowed to be imported at 40 per cent of the import duty. Will it not hit the local, Indian manufacturing industry? This was my concern.

MR. CHAIRMAN: Please conclude.

DR. JINENDRA KUMAR JAIN: Okay. If the Finance Minister says that some units are also manufacturing raw materials, before he answers, I wish to point out that my only concern is that high-quality raw materials which are not being manufactured in this country, should be imported rather than the finished goods.

SHRI M. V. CHANDRASHEKHAR MURTHY: Sir, this supplementary does not come under the main question.

SHRI SOMAPPA R. BOMMAI: Sir, industrialists and traders plan their industries or trade on the basis of the Government's declared excise policy. If the Government goes on changing it often, their planning will be upset. It is more so in the case of the people who are engaged in small-scale industries. So, may I ask the Government whether the excise policy will continue at least for the budgeted year or two years so that they can plan well?

THE MINISTER OF FINANCE (SHRI MANMOHAN SINGH): Sir, I appreciate the spirit in which the hon. Member has asked that question. It is precisely because our excise tax system is so complicated and riddled with a large number of exemptions that classification disputes arise and the litigation scope increases. We are trying to clean up the system. There may be some problems in transition, but our objective is precisely to go towards a system which will be as transparent as possible, which will minimise the scope for classification disputes and which will minimise the scope for arbitrary action on the part of the Excise and Custom officials. This is the direction. This is the spirit behind all the tax reform measures that are included in this year's budget.

But, I do admit that in the present case there was a mistake made. I would appeal to the hon. Members: to err is human, but to forgive is divine.